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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

Public Copy

File:

Office: NEBRASKA SERVICE CENTER Date:

MAR - 8 2001

IN RE: Petitioner:
Beneficiary:

Identification data deleted to
prevent clearly unwarranted
invasion of personal privacy.

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Lebanon, as the fiance(e) of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K).

The director denied the petition after determining that the petitioner and the beneficiary had not previously met in person, as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner's failure to comply with the statutory requirement was not the result of extreme hardship to the petitioner, or unique circumstances. The director also questioned the bonafide intent of the petitioner and the beneficiary to marry.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d) states in pertinent part that a fiancée petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bonafide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival...

The petition was filed with the Service on February 16, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on February 16, 1998 and ended on February 16, 2000.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that she had never met the beneficiary, but had seen photographs of him and spoken to him on the telephone. Therefore, on March 28, 2000, the director requested an explanation about why the petitioner and the beneficiary had not met in person. In response, the petitioner claimed that it was unsafe for her to travel to Lebanon. The petitioner also stated that she and the beneficiary were seeking approval of the nonimmigrant visa petition

so that the beneficiary could come to the U.S. and they could both decide whether or not to marry. Citing that no extreme hardship or unique circumstances existed to warrant a waiver of the requirement to meet in person, and questioning the bonafide intent of the petitioner and the beneficiary to marry, the director denied the petition.

On appeal, the petitioner reiterates that it would be dangerous for her to travel to Lebanon. Although the petitioner agrees with the director that she and the beneficiary could meet in a country where her safety would not be jeopardized, the petitioner states that she is terrified to fly. The petitioner also addresses the director's concern about the petitioner's and the beneficiary's intent to marry by stating that she and the beneficiary are certain that they will marry upon the beneficiary's arrival in the U.S.

The first issue to be examined is whether the requirement of a personal meeting between the petitioner and the beneficiary would result in extreme hardship to the petitioner. Pursuant to 8 C.F.R. 214.2(k)(2), a district director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance would:

- (1) Result in extreme hardship to the petitioner; or
- (2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The petitioner has consistently raised the safety of travel to Lebanon as her reason for being unable/unwilling to travel to the beneficiary's country of residence. The United States Department of State publishes travel warnings and public information sheets for U.S. citizens through the Consular Affairs internet web site at <http://travel.state.gov>. Travel Warnings are issued when the State Department decides, based on all relevant information, to recommend that Americans avoid travel to a certain country. Public Announcements are a means to disseminate information about terrorist threats and other relatively short-term and/or trans-national conditions posing significant risks to the security of American travelers.

The Department of State has a travel warning for Lebanon, and does not recommend that U.S. citizens travel to that country. Nevertheless, it is not necessary for the petitioner to travel to Lebanon. The language in the statute does not require the petitioner to visit the beneficiary in the beneficiary's country of residence. The statute only requires an in-person meeting between the petitioner and the beneficiary, which can take place in any country. There is no evidence in the record that the petitioner and the beneficiary have attempted to meet in a third country, if travel to Lebanon for the petitioner and travel to the U.S. for the beneficiary is problematic. The petitioner concedes that she and the beneficiary could meet in a third country but for her fear of flying. Such fear, however, does not qualify the petitioner for a

waiver based upon extreme hardship.

The final issue that the petitioner raises on appeal is that she and the beneficiary do intend to marry if the instant petition is granted in behalf of the beneficiary. This statement, however, does not explain the petitioner's prior admission of being unsure about whether she and beneficiary would marry if the beneficiary were to enter the U.S. with a K1 nonimmigrant visa.

The petitioner has failed to establish that she and the beneficiary have personally met as required by section 214(d) of the Act, and that extreme hardship or unique circumstances qualify her for a waiver of the statutory requirement. The petitioner has also failed to establish that she and the beneficiary have a bonafide intent to marry.

Pursuant to 8 C.F.R 214.2(k)(2), the denial of this petition is without prejudice, and the petitioner may file a new I-129F petition after she and the beneficiary have met in person.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.